

E & R AMENDMENTS TO LB 673

1           1.     Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           "Section 1. Sections 1 to 13 of this act shall be known  
4 and may be cited as the Black-Tailed Prairie Dog Management Act.

5           Sec. 2.     For purposes of the Black-Tailed Prairie Dog  
6 Management Act:

7           (1) Colony means the series of burrows and tunnels  
8 created by the black-tailed prairie dog where black-tailed prairie  
9 dogs live;

10          (2) County board means the county board of commissioners  
11 or supervisors of a county that has adopted the act;

12          (3) Director means the Director of Agriculture or his or  
13 her designated representative;

14          (4) Managed colony means a colony that is confined to  
15 land owned by one person; and

16          (5) Person means any individual, partnership, firm,  
17 limited liability company, corporation, company, society, or  
18 association, the state or any department, agency, or political  
19 subdivision thereof, the federal government, or any other public or  
20 private entity.

21          Sec. 3.     A county may adopt by resolution and carry out a  
22 coordinated program for the management of black-tailed prairie dogs  
23 on property within the county consistent with the Black-Tailed  
24 Prairie Dog Management Act and rules and regulations adopted and

1 promulgated by the director. When a county adopts such a  
2 resolution, the county shall assume the authority and duties  
3 provided in the act and the provisions of the act shall be  
4 applicable to persons owning or controlling property within the  
5 county.

6           Sec. 4. It is the duty of each person who owns or  
7 controls property within a county that has adopted a coordinated  
8 program for the management of black-tailed prairie dogs under  
9 section 3 of this act to effectively manage black-tailed prairie  
10 dog colonies present upon his or her property to prevent the  
11 expansion of colonies to adjacent property if the owner of the  
12 adjacent property objects to such expansion.

13           Sec. 5. A county board of a county that has adopted a  
14 coordinated program for the management of black-tailed prairie dogs  
15 under section 3 of this act may:

16           (1) Employ personnel and expend funds for the purchase of  
17 materials, machinery, and equipment to carry out its duties and  
18 responsibilities under the Black-Tailed Prairie Dog Management Act;

19           (2) Cooperate and coordinate with the Animal and Plant  
20 Health Inspection Service of the United States Department of  
21 Agriculture, the National Forest Service, the United States Fish  
22 and Wildlife Service, the Game and Parks Commission, and other  
23 local, state, and national agencies and organizations, public or  
24 private, to develop a coordinated program for the control and  
25 management of black-tailed prairie dogs and to carry out its duties  
26 and responsibilities under the act;

27           (3) Issue general and individual notices as provided in

1 section 6 of this act for the management of black-tailed prairie  
2 dog colonies;

3 (4) Examine property within the county for the purpose of  
4 determining the location of black-tailed prairie dog colonies; and

5 (5) Request and receive funds from the Animal Damage  
6 Control Cash Fund pursuant to section 11 of this act and section  
7 81-2,237.

8 Sec. 6. (1) (a) Notices for management of black-tailed  
9 prairie dog colonies shall consist of two kinds: General notices,  
10 as prescribed by rules and regulations adopted and promulgated by  
11 the director, which notices shall be on a form prescribed by the  
12 director; and individual notices, which notices shall be on a form  
13 prescribed by this section. Failure to publish general notices or  
14 to serve individual notices as provided in this section shall not  
15 relieve any person from the necessity of full compliance with the  
16 Black-Tailed Prairie Dog Management Act and rules and regulations  
17 adopted and promulgated pursuant to the act.

18 (b) General notice shall be published by the county board  
19 of each county that has adopted a coordinated program for the  
20 management of black-tailed prairie dogs under section 3 of this act  
21 in one or more newspapers of general circulation in the county on  
22 or before May 1 of each year or at such other times as the county  
23 board may determine.

24 (c) Whenever any county board of a county that has  
25 adopted a coordinated program for the management of black-tailed  
26 prairie dogs under section 3 of this act has reason to believe,  
27 based upon information or through its own investigation, that a

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1 colony, or any portion of a colony, has expanded onto adjacent  
2 property and the owner of the adjacent property objects to such  
3 expansion and the county board determines that it is necessary to  
4 secure more prompt or definite management of a colony than is  
5 accomplished by the general published notice, it shall cause to be  
6 served individual notice, upon the owner of record of the property  
7 upon which the colony is located at his or her last-known address,  
8 of recommended methods of when and how black-tailed prairie dogs  
9 are to be managed.

10 (d) The county board shall use one or both of the  
11 following forms for all individual notices:

12 (i) ..... County Board

13 OFFICIAL NOTICE

14 Information received by the county board indicates the  
15 existence of an unmanaged black-tailed prairie dog colony on  
16 property owned by you at:

17 .....

18 The method of management recommended by the county board is as  
19 follows:

20 .....

21 Other appropriate management methods are acceptable if approved by  
22 the county board.

23 State law specifies a duty of each person who owns or  
24 controls property within a county that has adopted a coordinated  
25 program for the management of black-tailed prairie dogs under  
26 section 3 of this act to manage black-tailed prairie dog colonies  
27 present upon his or her property to prevent the expansion of

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1 colonies to adjacent property if the owner of the adjacent property  
2 objects to such expansion. You must provide notice and evidence to  
3 the county board within sixty days after the date specified at the  
4 bottom of this notice that appropriate management as specified in  
5 this notice, or alternative management that is approved by the  
6 board, has been initiated. If services for the management of  
7 black-tailed prairie dogs are not available within the sixty-day  
8 period specified in this notice, you may satisfy this notice by  
9 providing evidence that you have arranged for management to occur  
10 when available. If such notice and evidence are not received by  
11 the county board within sixty days after the date specified at the  
12 bottom of this notice, the county board or its agent may enter upon  
13 your property for the purpose of taking the appropriate management  
14 measures. Costs for the management activities performed by the  
15 county board shall be at the expense of the owner of the property  
16 and shall become a lien on the property as a special assessment  
17 levied on the date of control.

18 If the county board receives a written request from you  
19 within fifteen days after the date specified at the bottom of this  
20 notice, you are entitled to a hearing before the county board to  
21 challenge this notice.

22 County Board Dated .....

23 (ii) ..... County Board

24 OFFICIAL NOTICE

25 Information received by the county board indicates the  
26 presence of an unmanaged black-tailed prairie dog colony on  
27 property owned by you at:

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1 ..... .

2 The method of management recommended by the county board is as  
3 follows:

4 ..... .

5 Other appropriate management methods are acceptable if approved by  
6 the county board.

7           State law specifies a duty of each person who owns or  
8 controls property within a county that has adopted a coordinated  
9 plan for the management of black-tailed prairie dogs under section  
10 3 of this act to manage black-tailed prairie dog colonies present  
11 upon his or her property to prevent the expansion of colonies to  
12 adjacent property if the owner of the adjacent property objects to  
13 such expansion. You must provide notice and evidence to the county  
14 board within sixty days after the date specified at the bottom of  
15 this notice that appropriate management as specified in this  
16 notice, or alternative management that is approved by the board,  
17 has been initiated. If services for the management of black-tailed  
18 prairie dogs are not available within the sixty-day period  
19 specified in this notice, you may satisfy this notice by providing  
20 evidence that you have arranged for management to occur when  
21 available. If such notice and evidence are not received by the  
22 county board within sixty days after the date specified at the  
23 bottom of this notice you may, upon conviction, be subject to a  
24 fine of \$100.00 per day for each day of noncompliance beginning on  
25 ....., up to a maximum of fifteen days of noncompliance (maximum  
26 \$1,500).

27           If the county board receives a written request from you

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1 within fifteen days after the date specified at the bottom of this  
2 notice, you are entitled to a hearing before the county board to  
3 challenge this notice.

4 County Board Dated .....

5 (2) Upon the written request of any landowner served with  
6 an individual notice pursuant to subsection (1) of this section  
7 received within fifteen days after the date specified by such  
8 notice, the county board shall hold an informal public hearing to  
9 allow such landowner an opportunity to address the county board's  
10 notice.

11 (3) If a landowner who has received a notice pursuant to  
12 subsection (1) of this section fails to comply with the notice, the  
13 county board shall:

14 (a) If, upon expiration of the sixty-day period specified  
15 on the notice required by subdivision (1)(d)(i) of this section,  
16 the landowner has not complied with the notice and has not  
17 requested a hearing pursuant to subsection (2) of this section, the  
18 county board may cause proper management methods to be used on such  
19 property and shall advise the record landowner of the cost incurred  
20 in connection with such operation. The cost of any such management  
21 shall be at the expense of the landowner. In addition the county  
22 board shall immediately cause notice to be filed of possible unpaid  
23 black-tailed prairie dog management assessments against the  
24 property upon which the management measures were used in the  
25 register of deeds office in the county where the property is  
26 located. If unpaid for two months, the county board shall certify  
27 to the county treasurer the amount of such expense and such expense

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1 shall become a lien on the property upon which the management  
2 measures were taken as a special assessment levied on the date of  
3 management. The county treasurer shall add such expense to and it  
4 shall become and form a part of the taxes upon such land and shall  
5 bear interest at the same rate as delinquent taxes; or

6 (b) If, upon the expiration of the sixty-day period  
7 specified on the notice required by subdivision (1)(d)(ii) of this  
8 section, the landowner has not complied with the notice and has not  
9 requested a hearing pursuant to subsection (2) of this section, the  
10 county board shall notify the county attorney who shall proceed  
11 against such landowner as prescribed in this subdivision. A person  
12 who is responsible for an unmanaged colony shall, upon conviction,  
13 be guilty of an infraction pursuant to sections 29-431 to 29-438,  
14 except that the penalty shall be a fine of one hundred dollars per  
15 day for each day of violation up to a total of one thousand five  
16 hundred dollars for fifteen days of noncompliance.

17 (4) This section shall not be construed to limit  
18 satisfaction of the obligation imposed by this section in whole or  
19 in part by tax foreclosure proceedings. The expense may be  
20 collected by suit instituted for that purpose as a debt due the  
21 county or by any other or additional remedy otherwise available.  
22 Amounts collected under this section shall be deposited to the  
23 black-tailed prairie dog management fund of the county board if  
24 such fund has been created by the county board or if no such fund  
25 has been created, then to the county general fund.

26 Sec. 7. If any person is dissatisfied with the amount of  
27 any costs charged against him or her under the Black-Tailed Prairie



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1 Dog Management Act, he or she may, within fifteen days after being  
2 advised of the amount of the charge, file a written protest with  
3 the county board. The county board shall hold a hearing to  
4 determine whether the charges were appropriate, taking into  
5 consideration whether the management measures were conducted in a  
6 timely fashion. Following the hearing, the county board shall have  
7 the power to adjust or affirm such charge. If any person is  
8 dissatisfied with the decision of the county board or with charges  
9 made by the county board for management work performed, such person  
10 may appeal the decision, and the appeal shall be in accordance with  
11 the Administrative Procedure Act.

12           Sec. 8. A county board of a county that has adopted a  
13 coordinated plan for the management of black-tailed prairie dogs  
14 under section 3 of this act, or anyone authorized by the county  
15 board, may enter upon property in the county for purposes of  
16 performing the duties and exercising the powers under the  
17 Black-Tailed Prairie Dog Management Act or rules and regulations  
18 adopted and promulgated under the act without being subject to any  
19 action for trespass or damages, including damages for destruction  
20 of growing crops, if reasonable care is exercised and forty-eight  
21 hours' written advance notice of entrance is provided to the  
22 property owner or occupant.

23           Sec. 9. The director (1) shall investigate the subject  
24 of black-tailed prairie dogs, (2) shall cooperate with agencies of  
25 federal and state governments and other persons in carrying out the  
26 Black-Tailed Prairie Dog Management Act, (3) may employ personnel  
27 necessary to carry out the director's duties and responsibilities

1 under the act, and (4) shall perform such other acts as may be  
2 necessary or appropriate to the administration of the act.

3           Sec. 10. The director may convene an advisory committee  
4 to advise the director concerning his or her responsibilities under  
5 the Black-Tailed Prairie Dog Management Act. Representatives from  
6 state or federal agencies concerned with the management of  
7 black-tailed prairie dog colonies, the Institute of Agriculture and  
8 Natural Resources of the University of Nebraska, county government,  
9 agriculture, environmental organizations, and others in the public  
10 and private sectors may serve on such committee at the request of  
11 the director. If an advisory committee is convened, members shall  
12 not receive any reimbursement for expenses.

13           Sec. 11. The director shall adopt and promulgate such  
14 rules and regulations as are necessary to guide county boards  
15 regarding (1) development of county black-tailed prairie dog  
16 management plans, (2) appropriate and effective methods of  
17 management of black-tailed prairie dog colonies, (3) issuance of  
18 general notices, and (4) procedures for requesting assistance from  
19 the Animal Damage Control Cash Fund under subsection (2) of section  
20 81-2,237.

21           Sec. 12. A black-tailed prairie dog management fund may  
22 be established by a county, which fund shall be available for  
23 expenses authorized to be paid from such fund, including necessary  
24 expenses of the county board in carrying out its duties and  
25 responsibilities under the Black-Tailed Prairie Dog Management Act.

26           Sec. 13. The cost of managing black-tailed prairie dog  
27 colonies on all land owned or controlled by a state department,

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1 agency, commission, or board or a political subdivision shall be  
2 paid by the state department, agency, commission, or board in  
3 control thereof or the political subdivision out of funds  
4 appropriated to the state department, agency, commission, or board  
5 or budgeted by the political subdivision for its use.

6           Sec. 14. Section 81-2,236, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           81-2,236. The Director of Agriculture may contract and  
9 cooperate with the Animal and Plant Health Inspection Service of  
10 the United States Department of Agriculture in the management and  
11 control of (1) coyotes, bobcats, foxes, and other predatory animals  
12 listed in section 23-358 in this state that are injurious to  
13 livestock, poultry, and game animals and the public health, (2)  
14 black-tailed prairie dogs and other injurious commensal and field  
15 rodents, and (3) nuisance birds or other nuisance wildlife in  
16 accordance with organized and systematic plans of the Animal and  
17 Plant Health Inspection Service of the United States Department of  
18 Agriculture for the management and control of such animals.  
19 Supervision of the program shall be by the local representative of  
20 the Animal and Plant Health Inspection Service of the United States  
21 Department of Agriculture. Expenditure of funds appropriated by  
22 the Legislature may not be made without the approval in writing by  
23 the director. The director in cooperation with the Animal and  
24 Plant Health Inspection Service of the United States Department of  
25 Agriculture may enter into agreements with other governmental  
26 agencies and with counties, associations, corporations, or  
27 individuals when such cooperation is deemed to be necessary to

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1 promote the management and control of such predatory animals,  
2 black-tailed prairie dogs and other injurious commensal and field  
3 rodents, nuisance birds, or other nuisance wildlife.

4 Sec. 15. Section 81-2,237, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 81-2,237. (1) There is hereby created the Animal Damage  
7 Control Cash Fund. Such fund shall be administered by the  
8 Department of Agriculture. The fund shall consist of funds  
9 received from any source to carry out the animal damage control  
10 program pursuant to section 81-2,236. Any money in the fund  
11 available for investment shall be invested by the state investment  
12 officer pursuant to the Nebraska Capital Expansion Act and the  
13 Nebraska State Funds Investment Act.

14 (2) To the extent that funds are available in the fund,  
15 the department may expend up to twenty-five thousand dollars from  
16 the fund for each of FY2005-06 and FY2006-07 as aid to counties  
17 that (a) have adopted a coordinated program for the management of  
18 black-tailed prairie dogs under section 3 of this act and (b)  
19 request funding pursuant to procedures provided in rules and  
20 regulations adopted and promulgated by the Director of Agriculture.

21 Sec. 16. Original sections 81-2,236 and 81-2,237,  
22 Reissue Revised Statutes of Nebraska, are repealed.".

23 2. On page 1, line 3, after the semicolon insert "to  
24 provide powers for the Director of Agriculture; to provide for  
25 financial aid as prescribed;".